IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 15TH OCTOBER 2007 / 23RD ASWINA 1929

WP(C).No. 7509 of 2007(R)

PETITIONER:

S.SAJU, S/O.D.SADANANDAN,
AGED 37 YEARS, GOVERNMENT CONTRACTOR,
`VASANTHAM', VENKULAM, EDAVA P.O.,
VARKALA VIA, THIRUVANANTHAPURAM.

BY ADV. SRI.BABU JOSEPH KURUVATHAZHA
SRI.K.I.SAGEER

RESPONDENTS:

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1. VARKALA MUNICIPALITY REPRESENTED
BY ITS SECRETARY, OFFICE OF THE VARKALA
MUNICIPALITY, THIRUVANANTHAPURAM DISTRICT.

2. VARKALA MUNICIPAL COUNCIL REPRESENTED
BY ITS CHAIR-PERSON, OFFICE OF THE VARKALA
MUNICIPALITY, THIRUVANANTHAPURAM DISTRICT.

R1 & R2 BY ADV.SRI.J.S.AJITHKUMAR, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

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W.P.(C)No.7509 OF 2007

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DATED THIS THE 15TH OCTOBER, 2007

J U D G M E N T

Heard Mr.Babu Joseph Kuruvathazha, counsel for the petitioner, Mr.J.S.Ajith Kumar, Standing Counsel for the Municipality and Mr.Shyson P.Manguzha, Government Pleader.

2. My attention was drawn by Mr.Babu Joseph Kuruvathazha to Rule 14(5) of the Kerala Municipality (Execution of Public Works and Purchase of Materials) Rules, 1997 which reads as follows:-

> "Where an item of work which has not been included in the estimate for unforeseen reasons or an item of additional work has to be executed while the execution of a public work in accordance with the estimate is being carried on, an estimate for such excess work shall be prepared and prior sanction, both administrative and technical, shall be obtained from the authorities who had given administrative and technical sanction to the original estimate. Before giving technical sanction to such revised estimate, the concerned Engineer shall satisfy himself that the excess work is inevitable and he shall certify accordingly."

My attention was also drawn by the learned counsel to Exts.P3 to P6.

3. Having considered the submissions, the documents to which

my attention was drawn and the relevant rule, I am of the view that it is not necessary that the 1st respondent-Municipality should seek concurrence of the Government for releasing payments to the petitioner. I dispose of the Writ Petition commanding the respondents to release to the petitioner the balance amount of Rs.2,05,000/- (Rs.Two lakhs and five thousand only) due to him forthwith and at any rate within three weeks of receiving copy of this judgment.

(PIUS C.KURIAKOSE, JUDGE)

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